

## GENERAL INFORMATION

Applicant: Amanda Elfstrum

Location: 9617 Wyoming Circle

Request: Variance to reduce the required front setback for a play apparatus/accessory structure from 30 feet to 6.5 feet, to reduce the required side setback from 15 feet to 14.7 feet, and to allow a play apparatus/accessory structure in the front yard

Existing Land Use and Zoning: Single Family; zoned Single Family Residential (R-1)

Surrounding Land Use and Zoning: Single-Family Residential; zoned R-1

Comprehensive Plan Designation: Low Density Residential

## CHRONOLOGY

Planning Commission	05/26/2016	Public hearing scheduled
City Council	06/06/2016	Tentative meeting date

## DEADLINE FOR AGENCY ACTION

Application Date:	04/06/2016
60 Days:	06/05/2016
120 Days:	08/04/2016
<b>Applicable Deadline:</b>	<b>08/04/2016</b>
Newspaper Notification:	Confirmed – (05/12/2016 Sun Current – 10 day notice required)
Direct Mail Notification:	Confirmed – (200 foot buffer – 10 day notice required)

## STAFF CONTACT

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## PROPOSAL

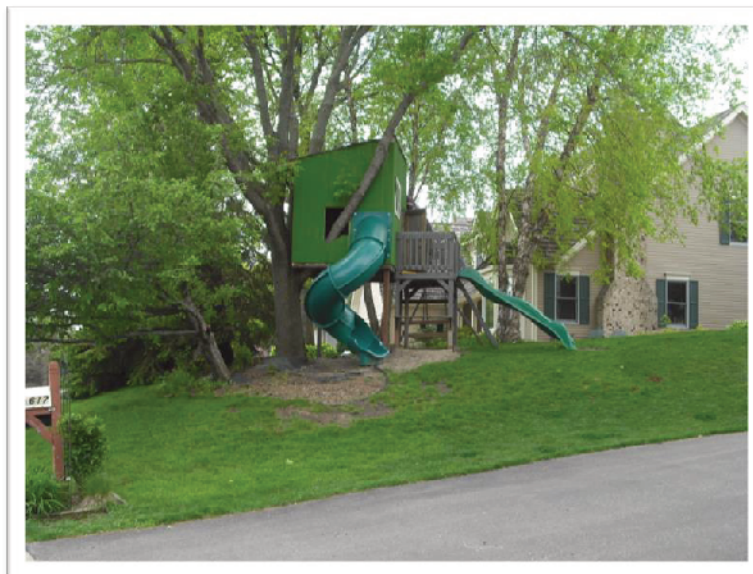
The applicant requests variances to retain an existing play apparatus/accessory structure constructed in 2012 and illegally located within the front yard at 9617 Wyoming Circle. According to the submitted survey, the play apparatus is located 14.7 feet from the side property line and 6.5 feet from public right-of-way, partially within a drainage and utility easement. The play apparatus is comprised of slides, a small open deck, and approximately 50 square feet of enclosed space.

## ANALYSIS

### Applicable Codes

As constructed, the structure in question is both a play apparatus and a play house. A play house falls under the definition of an accessory structure. City Code Section 21.301.19(c) requires accessory structures in the R-1 District to be at least 30 feet from a streetside property line, whereas the existing structure is 6.5 feet from the property line adjacent to Wyoming Circle. City Code Section 19.08(d)(10) prohibits play apparatus over four feet in height in front yards and requires them to be at least 15 feet from side property lines, whereas the existing structure is 14.7 feet from the side lot line to the west. At 9617 Wyoming Circle, the principal building is approximately 30 feet from the front lot line. Therefore, the front yard is the portion of the yard between the front line and a setback of 30 feet along the full width of the lot.

Based on Pictometry measurements, the structure appears to meet the 15 foot height limit for accessory buildings.

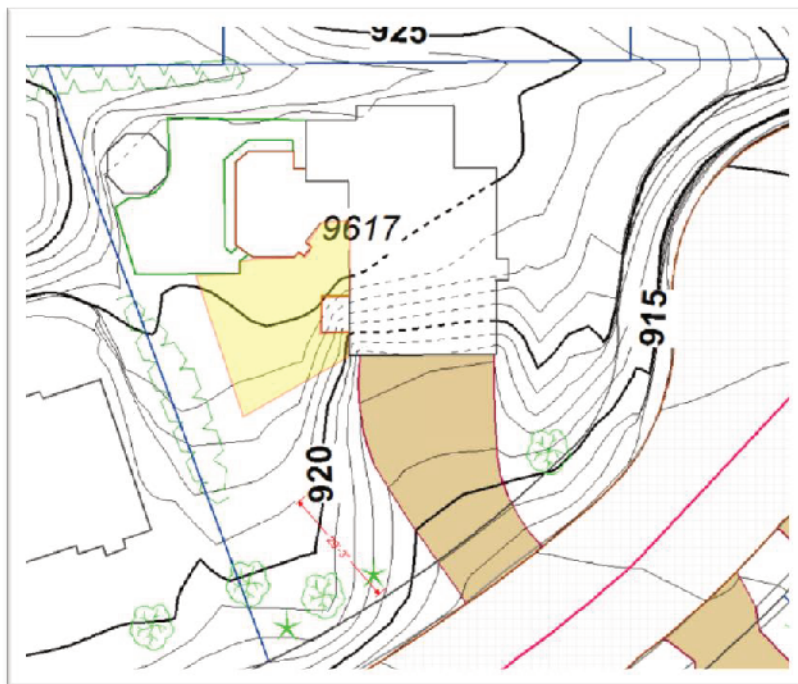


The reason the City prohibits accessory structures and play apparatus over four feet in height in front yards is primarily aesthetic. As with fence standards, the City Code works to preserve an open character along streets.

Staff has closely reviewed the required findings and believes they are difficult to make in this case. Although not to the applicant's preference, there are other areas on site where play equipment could be installed and be in conformance with Code requirements (see Figure 1 below). The fact that there are Code compliant alternatives on site make it difficult to find that there is a practical difficulty in complying with the ordinance.

The placement of a play apparatus/accessory structure in this location is not in harmony with the City Code as written. If this location is deemed appropriate, an alternative to a variance would be to revise standards citywide to allow accessory buildings and play apparatus in front yards. However, staff would not recommend that approach, especially for accessory structures, given past City emphasis on preserving an open character along streets in residential neighborhoods.

FIGURE 1: Location (in yellow) where a play apparatus/accessory structure may be located without issues related slope or other structures on the site.



Included with the application are several letters of support and affidavits of consent and one letter of opposition.

**Status of Enforcement Orders**

There are open enforcement orders for the play apparatus to be removed, which are on hold pending the result of the variance application.

**FINDINGS**

**Section 2.98.01(b)(2)(A-C) – Variances**

**(A) When the variance is in harmony with the general purposes and intent of the ordinance;**

- The variance is not in harmony with the general purposes and intent of the ordinance. Code requirements related to play apparatus and accessory structures are intended to achieve a reasonable balance between the desire for outdoor play with the aesthetic, maintenance, and security concerns of the City and neighbors by not permitting play apparatus and accessory structures within the front yard.

**(B) When the variance is consistent with the comprehensive plan;**

- The Comprehensive Plan designates the property as Low Density Residential and does not provide specific guidance regarding play equipment. Play equipment is incidental to single-family residential land uses. The variance is not inconsistent with the Comprehensive Plan.

**(C) When the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties.**

- The applicant does not have a practical difficulty. The property owner has the ability to install play apparatus/accessory structure on the property, albeit not in the applicant's preferred location.

**Practical difficulties as used in connection with the granting of the variance, means that:**

**(i) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;**

- The proposed variances would allow permanent continuation of a non-conforming play apparatus and accessory structure. Minimum standards related to play equipment and accessory structures in single-family neighborhoods are reasonable and have been applied consistently. Play equipment may be installed elsewhere on the subject property in conformance with City Code.

**(ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and**

- The plight of the landowner was created by the landowner. The applicant constructed the play apparatus in 2012 in violation of City Code.

**(iii) The variance if granted will not alter the essential character of the locality.**

- The proposed variance would allow existing non-conforming play apparatus and accessory structure to become permanent. Given the play apparatus has existed since 2012 and is partially screened from Wyoming Avenue, its continued presence is not likely to alter the essential character of the neighborhood.

**RECOMMENDATION**

Staff recommends the following motion:

In Case PL2016-56, having been unable to make the required findings, I move to recommend the City Council adopt a resolution of denial for the variances to allow a play apparatus/accessory structure in the front yard located at 9617 Wyoming Circle.